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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,574	03/09/2004	Mike Ryan	D-1218 R8	2495
28995	7590	02/23/2006	EXAMINER	
RALPH E. JOCKE walker & jockey LPA 231 SOUTH BROADWAY MEDINA, OH 44256			WALSH, DANIEL I	
		ART UNIT	PAPER NUMBER	2876

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,574	RYAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Daniel I. Walsh	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,17-19 and 22-28 is/are rejected.
- 7) Claim(s) 3-16,20,21 and 29-34 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

## **DETAILED ACTION**

1. Receipt is acknowledged of the response received on 7 December 2005 and IDS of 16 March 2005. Claims 1-34 are pending. Regarding the election of species requirement, the Examiner finds the Applicants arguments persuasive. An action on claims 1-34 appears below.

### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities: Replace "(d)" with – (b) --. It appears that the parameter monitoring should refer to element (b), as per claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 17-19, and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipate by Fukatsu (US 4,510,381).

Re claim 1, Fukatsu teaches moving a gate adjacent an opening in an automated banking machine including a cash dispenser, between an open position and a closed position through operation of a drive, wherein in the open position at least one item is enabled to pass through the opening and in the closed position the opening is blocked by the gate, during at least a portion of

the moving monitoring at least one parameter of the drive, analyzing the at least one parameter monitored as a function of time through operating of a controller in the machine, and operating the controller to cause the machine to attempt one action in response to the analyzing (FIG. 3-4,12, and 19). When a hand is caught between the shutter 15, the roller 196 slips relative to the member 15a, thus overloading the motor 194. The current in the driver 217 increases and if it exceeds a level (FIG. 19) a stop signal is provided to stop the shutter so that the user can remove their hand.

Re claim 17, FIG. 19 shows current versus time.

Re claim 18, the limitations have been discussed above re claim 17.

Re claim 19, the limitations have been discussed above re claim 17.

Re claims 22-23, the Examiner notes that the detection of a hand/object, which causes a current change, is interpreted as determining if the gate has encountered an obstruction when moving towards a closed position, and an action is taken. The Examiner notes that as the claims recite a hard or soft obstruction, the Examiner believes that is sufficiently broad to cover most obstructions, including a hand.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukatsu, as discussed above.

The teachings of Fukatsu have been discussed above.

Re claim 2, though Fukatsu is silent to attempting to move the gate, Fukatsu teaches that the gate/shutter is able to be moved forwards/backwards. Though Fukatsu teaches stopping the gate/shutter when a current is detected out of range, the Examiner notes it would have been obvious to one of ordinary skill in the art to move the shutter/gate upon detection of the current (in a reverse direction) in order to provide some space/wiggle room for the user to remove their hand without injury or difficulty.

Re claims 24-25, Fukatsu teaches opening the gate to receive deposits and deliver deposit envelopes (see reference numerals 8 and 9). Though silent to sensing and closing the shutter/gate upon reception/dispensing, the Examiner notes that it is well known and conventional in the art to sense such actions and then closing the gate/shutter in response. Accordingly, such limitations are well known and conventional in the art, and therefore is an obvious expedient in order to accept/deliver deposits/envelopes and close the shutter when

completion is detected by sensors, in order to reduce exposure time of an ATM with an open shutter (security), for example.

5. Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukatsu, as discussed above, in view of Shepherd (US 6,494,364).

The teachings of Fukatsu have been discussed above.

Fukatsu is silent to sensors sensing items in the machine, determining if the item is expected to be sensed at the time it is sensed through operation of a controller, and operating the controller to cause a programmed action to be taken if the item is not expected to be sensed at the time it is sensed.

Shepherd teaches (col 4, lines 56+) that a card is sensed, it is determined if the item is supposed to be sensed at the time it is sensed, and if its not supposed to be sensed, a programmed action is performed (closing of shutter and retaining of the card), which is interpreted as a deposit holding container with a gate/shutter (separate from a shutter of the whole ATM as taught by Fukatsu) and closing the deposit gate/shutter (user cannot access the card) to the container where the retained cards are held. The examiner notes that it would have been obvious to one of ordinary skill in the art to have a container for storing the retained cards in order to organize them in one location.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Fukatsu with those of Shepherd.

One would have been motivated to do this to provide additional security against fraudulent users, for example.

***Allowable Subject Matter***

6. Claims 3-16, 20, 21, and 29-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or fairly suggest to one of ordinary skill in the art, in conjunction with all the other limitations of the subject claim(s) and any claim(s) upon which the subject claim(s) depend: the vibrating of claim 3, the controller selecting actions from among a plurality of possible actions in response to at least one manner in which the at least one sensed profile varies from the expected profile of claim 20, the determining where the gate encountered resistance of claim 21, the vibration of claim 29, the heating of claim 30, the application of de-icing material of claim 3, the contacting of a third party of claim 32, the capturing of image data of claim 33, and the transmitting of image data to a remote location of claim 34.

All remaining claims indicated as allowable are either directly or indirectly dependent upon the claim(s) specifically referred to above and are allowable for the same reasons.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Peters et al. (US 2003/0046232) which detects note removal, Ross (US 6,626,364) which teaches envelope dispensing, Gardner (US 5,929,413) which detects jams, Forrest (US 5,719,383) with sensors to monitor ATM parts, Coventry (US 2002/0060241) which teaches vibrating mechanisms to guide of a user interface who is visually impaired, Farquhar (US

6,729,538) which teaches detecting card reader errors, Shepherd (US 2001/0025881) which detects jams cards, and Takamatsu et al. relating to detection in ATM systems(US 4,567,358).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Walsh whose telephone number is (571) 272-2409. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel I Walsh

Examiner

Art Unit 2876

2-18-06

